

April 27, 2007

Dr. Carol O'Neill Mayhew
Education Associate, Regulation Review
Department of Education
401 Federal Street, Suite 2
Dover, DE 19901

RE: 10 DE Reg. 1508 [Proposed Diploma Regulations]

Dear Dr. Mayhew:

The State Council for Persons with Disabilities (SCPD) has reviewed the Department of Education's (DOE) proposal to amend its high school graduation standards published as 10 DE Reg. 1508 in the April 1, 2007 issue of the Register of Regulations. Council has the following observations.

First, the DOE requires submission of comments by April 5, 2007. SCPD suspects the DOE hoped for publication in the March registry. Obviously, the DOE must provide at least a 30-day comment period under the APA. See Title 29 Del.C. §10118.

Second, SCPD recommends substitution of "student's guidance counselor" for "their guidance counselor" in 3 contexts: 1) Student Success Plan definition, first sentence; 2) Section 4.1; and 3) Section 4.2.3. It is grammatically incorrect to have a plural pronoun ("their") with a singular antecedent ("student").

Third, although the definition of "Support Services" is not earmarked for amendment, it merits revision.

A. SCPD recommends substituting "educational" for "academic". A student may need help with a non-academic course, physical education. Moreover, some forms of assistance (e.g. behavioral counseling) are not academic in nature. The term "educational" is more encompassing. Cf. Mr. I and Mrs. I ex rel. L.I v. Maine Sch. Administrative District No. 55, 47 IDELR 121 (1st Cir. March 5, 2007)[IDEIA "education" is broader than "academics and includes physical, emotional, and social skills development]. Accord, OSEP Policy Letter to W. Lybarger, 17 IDELR 54 (September 14, 1990).

B. Council recommends substituting “extra year(s) of high school” for “a fifth year of high school”. The latter term could be considered limiting. Students with disabilities, in particular, may need more than 1 extra year of high school to amass sufficient credits and pass the DSTP. Compare 14 DE Admin Code 925, Section 17: “Students with disabilities who are unable to meet the requirements for a diploma shall be given the option to complete those requirements by continuing their education, at district expense, until their 21st birthday.”

Fourth, the relationship between an IEP and “Student Success Plan” (SSP) is not addressed. It is unclear if a special education student would have both an IEP and SSP. Since the personnel involved in drafting the plans are different, it is possible that the plans could be in conflict. The IEP’s transition component would obviously overlap with the work force and post-secondary education components of the SSP. It would be preferable to incorporate SSP components into the IEP so there is a single, integrated plan. If DOE opts to have separate plans, SCPD recommends that the “Student Success Plan” definition be amended to include participation of a DVR representative in the development of the SSP for students with disabilities.

Thank you for your consideration and please contact SCPD if you have any questions or comments regarding our observations or recommendations on the proposed regulations.

Sincerely,

Daniese McMullin-Powell, Chairperson
State Council for Persons with Disabilities

cc: The Honorable Valerie Woodruff
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